

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JOHN MICHAEL BALE,

Plaintiff,

V.

MICHELLE TAYLOR,

Defendant.

CASE NO. C12-5803 BHS-JRC

## ORDER

This matter comes before the Court on the Report and Recommendation (“R&R”) of the

Honorable J. Richard Creatura, United States Magistrate Judge. Dkt. 6. The Court having

considered the R&R and the remaining record, and no objections having been filed, does hereby

find and order as follows:

(1) The Court adopts the Report and Recommendation;

(2) Plaintiff may not sue his criminal defense attorney in a civil rights action because the attorney does not act under color of state law.

*Polk County v. Dodson*, 454 U.S. 312, 317-18 (1981). This defect in the complaint cannot be cured by amendment. This action is dismissed with prejudice as frivolous prior to service. This dismissal counts as a strike pursuant to 28 U.S.C. 1915 (e) (2) and (g).

(3) In forma pauperis status is revoked for the purpose of appeal.

DATED this 23rd day of October, 2012.

Benjamin L. Scott

BENJAMIN H. SETTLE  
United States District Judge

## ORDER